

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GMA ACCESSORIES, INC.

Plaintiff,

**DECLARATION IN
OPPOSITION**

Civil Action No.: 07CV3219 (LTS)

- against -

EMINENT, INC., SAKS FIFTH AVENUE, INC.,
INTERMIX, INC., WINK NYC, INC.,
LISA KLINE, INC., GIRLSHOP, INC.,
SHOWROOM SEVEN STUDIOS, INC.,
JONATHAN SINGER, LEWIS TIERNEY and
JONATHAN SOLNICKI,

Defendants.

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ANDREW T. SWEENEY, hereby declares, under penalty of perjury pursuant to 28
U.S.C. § 1746, as follows:

1. I am associate at The Bostany Law Firm, plaintiff in this proceeding.
2. This declaration is respectfully submitted in opposition to (1) Jonathan Solnicki's motion to vacate the default judgment against him and (2) Charlotte B. L.L.C.'s motion to intervene.
3. Jonathan Solnicki was served with process on May 29, 2007, by service upon his sister and partner. A copy of her signed receipt is annexed as **Exhibit 1**.
4. Failing to answer within the time allowed, the Clerk of this Court entered a default against Solnicki on June 27, 2007. A copy of this Certificate of Default is annexed as **Exhibit 2**.

5. On June 28, 2007 in accordance with Chamber Rules of Honorable Laura Taylor Swain, a letter seeking permission to file a Motion for a Default Judgment was submitted with a copy to Jonathan Solnicki. A copy of the letter is annexed as **Exhibit 3**.
6. On July 10, 2007 this honorable court issued an Order granting it permission to file the Default Judgment. A copy is annexed as **Exhibit 4**.
7. On July 19, 2007 a Motion for Default Judgment was filed.
8. On August 29, 2007 this Court entered a Default Judgment against Jonathan Solnicki along with a permanent injunction. A copy is annexed as **Exhibit 5**.
9. Jonathan Solnicki did not seek to appeal this Order and Judgment and the time to appeal has long since passed.
10. Jonathan Solnicki does not deny that Melina is his business partner which is supported by information publicly available. *See Exhibits 6 and 7*.
11. The Charlotte Solnicki website makes no mention of the brand being owned by another company and lists a New York City phone number for the "Charlotte Solnicki Corporate Office USA". *See Exhibit 8*.
12. Communication to retailers comes from "CHARLOTTE SOLNICKI" and not any other company. *See Exhibits 9, 10 and 11*.
13. Jonathan Solnicki has held himself out as the "president" of Charlotte Solnicki and while declining to himself answer the complaint was directing his co-defendants to continue to infringe. A June 2007 letter from him addressed to various retailers is annexed as **Exhibit 12**.

14. A subpoena for the deposition of Jonathan Solnicki and production of documents was served on October 24, 2007. See copy of subpoena and affidavit of service attached as **Exhibit 13**.
15. A subpoena for the deposition of Charlotte B, LLC and production of documents was served on October 29, 2007. See copy of subpoena and affidavit of service attached as **Exhibit 14**.
16. GMA has a co-existence agreement with Charlotte Russe and has policed the mark CHARLOTTE aggressively for a period of at least 7 years. Some of the more recent companies that GMA has stopped or is in the process of policing without the need for litigation are annexed as **Exhibits 15 thru 30**.
17. At least 2 out of 3 of the members of Charlotte B, LLC had notice of this case since at least as early as May 2007.
18. The Solnicki's motion to intervene is a flagrant attempt to use the vehicle of an LLC to make an untimely request to relitigate issues already decided against a principal member, due to his willful default.
19. Further, the LLC has provided no support for its bare claim that it is the owner of the Charlotte Solnicki mark or has any right to use the mark.

Wherefore we respectfully ask that the motions for default judgment and intervention claim be denied.

Dated: New York, New York
November 7, 2007

Respectfully Submitted,

By: 

ANDREW T. SWEENEY (AS-0724)